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7

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 JOSE GALINDO,) Case No. 3:16-cv-03651
11 SANDRA HERNANDEZ,)
12 Plaintiffs,) COMPLAINT FOR DAMAGES,
13 vs.) DECLARATORY AND INJUNCTIVE
14 CITY OF SAN MATEO, a municipal) RELIEF, AND DEMAND FOR JURY
15 corporation, San Mateo Police Department) TRIAL
16 Officers FAYSAL ABI-CHAHINE,)
17 individually, and DERRICK JARVIS, also)
18 known as DERRIK JARVIS, individually,)
19 and DOES 1 to 100, jointly and severally,)
20 Defendants.)
21
22 1. 42 U.S.C. §§ 1981, 1983, 1985, 1988 –
23 Civil Rights Violations
24 2. 42 U.S.C. §§ 1981, 1983, 1985, 1988 –
Unlawful Customs, Policies, Habits, or
Procedures
3. California Civil Code § 52.1(b)
4. Assault and Battery
5. False Arrest
6. False Imprisonment
7. Negligence
8. Intentional Infliction of Emotional
Distress
9. Invasion of Privacy
10. Conspiracy
11. Sexual Battery

22 Plaintiffs, Jose Galindo (“Galindo”) and Sandra Hernandez (“Hernandez”) by and
23 through their attorney, the LAW OFFICES OF PANOS LAGOS, for their Complaint against
24 Defendants, states the following:

25 **INTRODUCTION**

26 This case arises out of an incident in which Plaintiffs were stopped for a non-
27 functioning rear taillight and without probable cause or reasonable suspicion of the commission
28 of any crime, were handcuffed, arrested, and, in the case of Hernandez, was sexually groped by

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 one of the defendant officers. After twenty minutes of the aforementioned conduct including
2 watching their vehicle be unlawfully searched, Plaintiffs were released with no criminal charges,
3 traffic citation, and no reporting of the subject incident.

4 **JURISDICTION**

5 1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1341,
6 and 1343 because it is being brought to obtain compensatory and punitive damages for the
7 deprivation, under color of state law, of the rights of citizens of the United States that are secured
8 by the United States Constitution, pursuant to 42 U.S.C. §§ 1983, 1985 and 1988. This action is
9 brought pursuant to the First, Fourth and Fourteenth Amendments to the United States
10 Constitution and the laws and Constitution of the State of California.

11 2. Plaintiffs further invoke this Court's supplemental jurisdiction, pursuant to 28
12 U.S.C. § 1337(a), to hear and decide claims arising under state law.

13 3. Venue is proper, pursuant to 28 U.S.C. § 1333(e)(2), because the events giving
14 rise to Plaintiffs' claims occurred in this judicial district.

15 **PARTIES**

16 4. Plaintiffs are citizens of the United States, competent adults, and residents of this
17 judicial district.

18 5. At all times mentioned herein, Defendants San Mateo Police Department Officers
19 FAYSAL ABI-CHAHINE ("Abi-Chahine"), individually, and DERRICK JARVIS, also known
20 as DERRICK JARVIS ("Jarvis"), and Does 1 to 100, in doing the acts or omissions hereinafter
21 described, acted within the course and scope of their employment with Defendant CITY OF
22 SAN MATEO Police Department ("SMPD") and acted under color of state law. The Defendants
23 named above and Does 1 to 100 are sued in their individual capacities.

24 6. Defendant CITY OF SAN MATEO ("City") is a public entity existing under the
25 laws of the State of California and is the employer of the individual defendants named above.

26 7. The true names or capacities, whether individual, corporate, associate, or
27 otherwise of Defendants named herein as Does 1 to 100 are unknown to Plaintiffs, who,
28 therefore, sue said Defendants by said fictitious names. Plaintiffs will amend this Complaint to

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 show said Defendants' true names and capacities when the same have been ascertained.
2 Plaintiffs are informed, believe, and thereon allege that all Defendants sued herein as Does are in
3 some manner responsible for the acts, omissions, and injuries alleged herein.

4 8. Plaintiffs allege, on information and belief, that each of the Defendants sued
5 herein was wrongfully, negligently, and/or otherwise responsible in some manner for the events
6 and happenings as hereinafter described, and proximately caused injuries and damages to
7 Plaintiffs. Further, one or more DOE defendants was, at all material times, responsible for the
8 hiring, training, supervision, and discipline of other defendants, including both the individually
9 named and DOE Defendants.

10 9. Plaintiffs are informed, believe, and thereon allege that each of the Defendants
11 was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator,
12 and/or alter ego of the remaining Defendants, and in doing the things hereinafter alleged, was
13 acting within the course and scope of that relationship. Plaintiffs are further informed, believe,
14 and thereon allege that each of the Defendants herein gave consent, aid, and assistance to each of
15 the remaining Defendants, and ratified and/or authorized the acts or omissions of each Defendant
16 as alleged herein, except as may hereinafter be otherwise, specifically alleged. At all material
17 times, each Defendant was jointly engaged in constitutionally violative, unlawful, and/or tortious
18 activity, resulting in the deprivation of Plaintiffs' constitutional rights and other actionable harm.

19 10. The acts and omissions of all SMPD Defendants,¹ as set forth herein, were at all
20 material times pursuant to the actual customs, policies, practices, and/or procedures of the SMPD
21 or, alternatively, such acts and omissions were pursuant to the lack thereof and, thus, were in lieu
22 of policies, practices, and procedures that should have been in place.

23 11. At all material times, each SMPD Defendant acted under color of the laws,
24 statutes, ordinances, and regulations of the State of California.

25 12. A proper and timely tort claim was presented to City on behalf of Plaintiffs
26 pursuant to Government Code section 910 et seq., and rejected on April 29, 2016; this action was
27 thereafter timely filed within all applicable statutes of limitation.

28 ¹ Wherever "SMPD Defendants" are referenced, both named and DOE Defendants are included.

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.

USDC (N.D. Cal.) Case No.: 3:16-cv-03651

13. This complaint may be pleaded in the alternative, pursuant to Rule 8(d)(2) of the Federal Rules of Civil Procedure.

GENERAL ALLEGATIONS

14. Plaintiffs re-allege each and every previous paragraph in this complaint, as though fully set forth herein.

15. On or about August 26, 2015, Plaintiffs, both of Hispanic origin, with Galindo driving his vehicle and Hernandez his passenger, were stopped by Officers Abi-Chahine and Jarvis. The claimed reason for the stop was a violation of California Vehicle Code § 24252 based upon a non-operational rear brake light located inside Plaintiffs' vehicle rear window – a minor traffic offense.

Galindo, timely, promptly and completely produced his vehicle registration and driver's license when asked to do so by Jarvis.

Hernandez produced her Costco membership card while verbally providing Abi-Chahine with her date of birth when asked by him for her driver's license.

Abi-Chahine ordered Hernandez out of the subject vehicle informing her that he was going to perform a drug test upon her while insisting that she was under the influence of drugs. Consistent with Abi-Chahine's statement of intent, he aimed a flashlight in Hernandez's eyes, asked her to stick out her tongue, count to forty and took her pulse. During this "testing", Hernandez was standing next to the subject vehicle belonging to Plaintiff Galindo.

Following this “testing” by Abi-Chahine, Hernandez was ordered to go to Defendants’ patrol vehicle parked behind Plaintiffs’ vehicle. Hernandez obeyed Abi-Chahine’s order to go to the patrol vehicle and, as ordered, turned around. Abi-Chahine stated that he was going to search Hernandez from behind and, under the claimed need to search, Abi-Chahine proceeded to place both of his hands **in** Hernandez’s pants pockets and **twice** groped her in her genital area to which Hernandez understandably, immediately, vigorously, loudly and repeatedly protested. There was no reasonable suspicion that Hernandez was armed, had committed a crime or was presently dangerous to either defendant officer or to anyone else. She was a passenger in a vehicle stopped for a minor traffic infraction.

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 Not only was Abi-Chahine's search of Hernandez not supported by either individualized
 2 or reasonable suspicion as required by long-established law, it was clearly pretextual by Abi-
 3 Chahine who sought to gratify his perverted, depraved, illicit, sexual desire and/or to humiliate
 4 and intimidate Hernandez.

5 While Hernandez was being subjected to the illegal/unlawful and perverted conduct of
 6 Abi-Chahine, Galindo was ordered, by Jarvis, out of the subject vehicle, placed in handcuffs and
 7 ordered seated with Hernandez on the public sidewalk. While so seated, Defendants searched
 8 Galindo's vehicle, not having asked and not otherwise given any consent of/by Galindo and
 9 having no probable cause or reasonable suspicion to do so and while far exceeding the period of
 10 time reasonably necessary to complete the infraction-ticket-writing process for which the stop
 11 was ostensibly made. Galindo's vehicle and Hernandez's person was "searched" by Defendants
 12 lacking reasonable suspicion and/or probable cause to support Plaintiffs' detention and/or arrest
 13 and said searches were not independently supported by individualized or reasonable suspicion as
 14 required by law.

15 Following the aforementioned conduct, Plaintiffs were permitted to drive away and no
 16 citation for the claimed traffic violation was issued nor was a report of the subject incident
 17 prepared by Defendants.

18 During the course of this twenty minute illegal seizure of Plaintiffs and the illegal
 19 searches of person and property, Hernandez was alternately and publically accused by Abi-
 20 Chahine of having been arrested, being on drugs, and of stealing.

21 16. At no time, did either Plaintiff physically resist, insult, threaten, touch, batter, or
 22 assault any Defendant officer or fail to promptly obey any order prior to being removed from the
 23 subject vehicle (or afterwards), restrained in their freedom, including the handcuffing by
 24 Galindo, during the unlawful searches of both vehicle and person and the noted perverted
 25 conduct by Abi-Chahine.

26 17. At all material times and, alternatively, the actions and omissions of each
 27 Defendant were intentional, and/or wanton and/or willful, and/or reckless, and/or callous, and/or
 28 malicious, and/or deliberately indifferent to Plaintiffs' rights, and/or negligent.

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
 USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 18. As a legal cause of each Defendant's acts and/or omissions as set forth above,
2 Plaintiffs suffered and sustained the following injuries and damages, past and future, including,
3 but not limited to:

- 4 a. Severe emotional distress, humiliation, indignity, embarrassment, anger,
5 frustration, annoyance, anxiety, and sleeplessness;
- 6 b. Loss of enjoyment of life;
- 7 c. All other legally cognizable special and general damages;
- 8 d. Violations of state and federal constitutional rights;
- 9 e. All damages and penalties recoverable under 42 U.S.C. §§ 1981, 1983, 1985 and
10 1988;
- 11 f. Medical expenses for Plaintiff Hernandez;
- 12 g. All damages and penalties recoverable under California Civil Code §§ 43, 52(a),
13 (b), 52.1, 52.4, Article I §13, of the California Constitution, and as otherwise
14 allowed under California and United States statutes, codes, and common law.

15 **CLAIMS FOR RELIEF**

16 **FIRST CLAIM**

17 **-- 42 U.S.C. § 1981, 1983, 1985, 1988 --**

18 **AGAINST DEFENDANTS ABI-CHAHINE, JARVIS, AND DOES 1 TO 100**

19 19. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
20 paragraphs 1 through 18 above, as though fully set forth herein.

21 20. By the actions and omissions described above, Defendants and Does 1 to 100
22 violated 42 U.S.C. § 1981, 1983, 1985, 1988, depriving Plaintiffs of the following well-settled
23 constitutional rights that are protected by the First, Fourth and Fourteenth Amendments to the
U.S. Constitution:

- 24 a. The right to be free from unreasonable searches and/or seizures, as secured by the
25 Fourth and Fourteenth Amendments;
- 26 b. The right to be free from the use of unlawful and/or unreasonable force, as
27 secured by the Fourth and Fourteenth Amendments;

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COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

- c. The right to be free from the use of unlawful and/or unreasonable force in the course of arrest or detention, as secured by the Fourth and Fourteenth Amendments;
- d. The right to the equal application of the law; and
- e. The right to ones liberty in bodily integrity (see *Winston v. Lee*, 470 U.S. 753 (1985); *Johnson v. Meltzer*, 134 F.3d 1393, 1397 (9th Cir. 1998) (citing *Albright v. Oliver*, 510 U.S. 266, 272 (1994)) for Hernandez as secured by the substantive protection under the Due Process clause.

21. The detention of Plaintiffs, the handcuffing of Galindo, the sexual groping of Hernandez, and the unreasonable and inappropriate force used on Hernandez was done in violation of Plaintiffs' constitutional rights guaranteed by the Fourth and/or Fourteenth Amendments to the United States Constitution, for which Defendants are liable either directly or via their failure to intervene. Upon information and belief, Plaintiffs allege that Abi-Chahine and Jarvis discriminated against Plaintiffs based upon their Hispanic heritage. As a result, Plaintiffs are entitled to damages, pursuant to 42 U.S.C. § 1981, 1983, 1985, 1988, et seq. in an amount to be proven at trial.

22. As a proximate result of the foregoing wrongful acts, Plaintiffs sustained injuries and damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and compensatory damages in an amount to be proven at trial.

23. In committing the acts alleged above, the individually named Defendants and Doe Defendants acted maliciously and/or were guilty of a wanton and reckless disregard for the rights, safety, and emotional well-being of Plaintiffs, and by reason thereof, Plaintiffs are entitled to exemplary and punitive damages in an amount to be proven at trial against these individual Defendants; no punitive damages are sought directly against City.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

SECOND CLAIM
-- 42 U.S.C. § 1981, 1983, 1985, 1988 --
AGAINST DEFENDANT CITY AND DOES 1 TO 100

24. Plaintiffs re-allege, and incorporate by reference, the allegations contained in

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 paragraphs 1 through 18 above, as though fully set forth herein.

2 25. Plaintiffs allege, upon information and belief, the unconstitutional actions and/or
3 omissions of the individually named SMPD Defendants herein were pursuant to the following
4 customs, policies, practices and/or procedures of the SMPD, stated in the alternative, which were
5 directed, encouraged, allowed, and/or ratified by policy making officials for City and/or the
6 SMPD:

- 7 a. Failure to supervise and/or discipline officers for misconduct that results in the
8 violation of citizens' civil rights; and/or,
- 9 b. Failing to institute, maintain, or effectively administer an appropriate training
10 regimen or implement a required protocol on subjects such as officer searches of
11 citizens of the opposite sex; and/or
- 12 c. Using or tolerating excessive and/or unjustified force and/or false arrests and/or
13 illegal searches;
- 14 d. Using or tolerating inadequate, deficient, and/or improper procedures for
15 handling, investigating, and reviewing complaints of excessive force or officer
16 misconduct, including claims made under California Government Code section
17 910 et seq.; and/or
- 18 e. Implementing, promoting, tolerating and/or instituting a policy or practice of
19 (pretextually or otherwise) routinely conducting pat-down searches of citizens for
20 traffic stops involving nothing more than minor traffic violations.

21 26. In the alternative, upon information and belief, Defendant City may have
22 instituted policies or training addressing some or all the topics listed above, but has either
23 through negligence or deliberate indifference to citizens' rights failed to properly oversee,
24 enforce, and/or properly carry out such policies and/or training.

25 27. The above-described customs, policies, practices, and/or procedures of the SMPD
26 were a moving force and/or a proximate cause of the deprivations of Plaintiffs' constitutional
27 rights, in violation of 42 U.S.C. § 1981, 1983, 1985, 1988, as more fully set forth above.

28 28. As a proximate result of the foregoing customs, polices, practices, and/or

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 procedures of the SMPD, or the lack or inadequacy thereof, Plaintiffs sustained injuries and
 2 damages as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and
 3 compensatory damages in an amount to be proven at trial. Plaintiffs' only means of securing
 4 complete and adequate relief is to also seek declaratory and injunctive relief, to offer Plaintiffs
 5 substantial and complete protection from Defendants' unlawful policies and practices. Plaintiffs,
 6 thus, seeks both legal damages and an equitable remedy in the form of injunctive relief against
 7 Defendant City.

8 WHEREFORE, Plaintiffs pray for relief as set forth herein.

9 **THIRD CLAIM**

10 **-- VIOLATION OF CIVIL CODE § 52.1 (b) --**

AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

11 29. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
 12 paragraphs 1 through 18 above, as though fully set forth herein.

13 30. By the actions and omissions described above, the individually named Defendants
 14 and Does 1 to 100 violated and/or interfered with Plaintiffs' state and/or federal rights through
 15 threats, and/or intimidation, and/or coercion, thereby entitling Plaintiffs to sue for damages under
 16 California Civil Code § 52.1, subdivision (b).

17 31. The violations included depriving Plaintiffs of the following well-settled
 18 constitutional rights that are secured by the U.S. Constitution, California Constitution, and
 19 California law:

- 20 a. The right to be free from unreasonable searches and seizures, as secured
 by the Fourth and Fourteenth Amendments;
- 21 b. The right (as to Hernandez) to one's liberty interest in bodily integrity
 secured as a substantive protection under the Due Process Clause and the
 right be free from the use of unlawful and/or unreasonable force in the
 course of arrest or detention, as secured by the Fourth and Fourteenth
 Amendments;
- 22 c. The right to be free from unreasonable searches and seizures, as secured
 by the California Constitution, Article I, section 13;

23 **COMPLAINT FOR DAMAGES**

24 *Galindo, Hernandez v. City of SAN MATEO, et al.*
 25 USDC (N.D. Cal.) Case No.: 3:16-cv-03651

- d. The right to protection from bodily restraint, harm, or personal insult, as secured by California Civil Code § 43; and
- e. The right to the full and equal benefit of all laws pursuant to 42 U.S.C. § 1981 and the equal protection of the laws pursuant to the Fourteenth Amendment of the United States Constitution.

32. As a proximate result of the foregoing wrongful acts, Plaintiffs sustained injuries and damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and compensatory damages in an amount to be proven at trial.

33. In committing the acts alleged above, Defendants acted maliciously and/or were guilty of a wanton and reckless disregard for the rights, safety, and emotional well-being of Plaintiffs, and by reason thereof, Plaintiffs are entitled to exemplary and punitive damages in an amount to be proven at trial against these individual Defendants; no punitive damages are sought directly against City.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

**FOURTH CLAIM
-- ASSAULT AND BATTERY --**
AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

34. Plaintiffs re-allege, and incorporate by reference, the allegations contained in paragraphs 1 through 18 above, as though fully set forth herein.

35. The acts of the individually-named Defendant Abi-Chahine and Does 1 to 100, described above, constitute assault and battery, entitling Plaintiffs to damages pursuant to California law.

36. The aiding and abetting and/or failure to intervene and/or failure to prevent these acts gives rise to liability on the part of the other individually named and/or DOE Defendants including Jarvis.

37. Defendant City is liable under California Government Code § 815.2 for the assaults and batteries, committed within the course and scope of the named Defendants' employment.

38. As a proximate result of the foregoing wrongful acts, Plaintiffs sustained injuries

COMPLAINT FOR DAMAGES

USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 and damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and
2 compensatory damages in an amount to be proven at trial, as well as punitive damages against
3 Defendants in their individual capacities. No punitive damages are sought against City.

4 WHEREFORE, Plaintiffs pray for relief as set forth herein.

5 **FIFTH CLAIM**
6 **-- FALSE ARREST --**

AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

7 39. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
8 paragraphs 1 through 18 above, as though fully set forth herein.

9 40. By the acts of the individually named Defendants and Does 1 to 100, alleged
10 herein, Plaintiffs were falsely arrested, thereby entitling Plaintiffs to damages pursuant to
11 California law.

12 41. The aiding and abetting and/or failure to intervene and/or failure to prevent this
13 arrest gives rise to liability on the part of the other individually named and/or DOE Defendants.

14 42. Defendant City is liable under California Government Code § 815.2 for the false
15 arrest, committed within the course and scope of the named Defendants' employment.

16 43. As a proximate result of the foregoing wrongful acts, Plaintiffs sustained injuries
17 and damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and
18 compensatory damages in an amount to be proven at trial, as well as punitive damages against
19 Defendants in their individual capacities. No punitive damages are sought against the City.

20 WHEREFORE, Plaintiffs pray for relief as set forth herein.

21 **SIXTH CLAIM**
22 **-- FALSE IMPRISONMENT --**

AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

23 44. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
24 paragraphs 1 through 18 above, as though fully set forth herein.

25 45. By the acts of the individually named Defendants and Does 1 to 100 alleged
26 herein, Plaintiffs were falsely imprisoned, thereby entitling Plaintiffs to damages pursuant to
27 California law.

28 46. The aiding and abetting and/or failure to intervene and/or failure to prevent this

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 imprisonment gives rise to liability on the part of the other individually named and/or DOE
2 Defendants.

3 47. Defendant City is liable under California Government Code § 815.2 for the false
imprisonment, committed within the course and scope of the named Defendants' employment.

5 48. As a proximate result of the foregoing wrongful acts, Plaintiffs sustained injuries
and damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and
7 compensatory damages in an amount to be proven at trial, as well as punitive damages against
8 Defendants in their individual capacities. No punitive damages are sought against the City.

9 WHEREFORE, Plaintiffs pray for relief as set forth herein.

10 **SEVENTH CLAIM**

11 **-- NEGLIGENCE --**

AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

12 49. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
13 paragraphs 1 through 18 above, as though fully set forth herein.

14 50. At all times, each Defendant owed Plaintiffs the duty to act with due care in the
15 execution and enforcement of any right, law, or legal obligation and each Defendant owed
16 Plaintiffs the duty to act with reasonable care.

17 51. These general duties of reasonable care and due care owed to Plaintiffs by all
18 Defendants include, but are not limited to, the following specific obligations:

- 19 a. To refrain from using excessive and/or unreasonable force against
20 Plaintiffs;
- 21 b. To conduct a reasonable investigation before effecting an arrest;
- 22 c. To use generally accepted police procedures and tactics that are reasonable
23 and appropriate;
- 24 d. To refrain from abusing the authority granted to Defendants by law;
- 25 e. To refrain from violating Plaintiffs' rights, which are guaranteed by the
26 United States and California Constitutions, as set forth above, and as
27 otherwise protected by law.

28 52. By the acts and omissions set forth more fully in the paragraphs above,

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 Defendants acted negligently and breached their duty of due care owed to Plaintiffs, which
2 foreseeably resulted in the suffering of damages by Plaintiffs.

3 53. As a proximate result of Defendants' negligence, Plaintiffs sustained injuries and
4 damages, as set forth above, in ¶ 18. Plaintiffs are, therefore, entitled to general and
5 compensatory damages in an amount to be proven at trial.

6 WHEREFORE, Plaintiffs pray for relief as set forth herein.

7 **EIGHTH CLAIM**
8 **-- INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS --**
AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

9 54. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
10 paragraphs 1 through 18 above, as though fully set forth herein.

11 55. The conduct of Defendants Abi-Chahine, Jarvis, and Does 1 to 100, as set forth
12 herein, was extreme and outrageous, willful, and was done with the intent to inflict and did cause
13 severe mental and emotional distress upon Plaintiffs.

14 56. As a result of said defendants' conduct, as aforesaid, Plaintiffs are entitled to an
15 award of punitive damages.

16 WHEREFORE, Plaintiffs pray for relief as set forth herein.

17 **NINTH CLAIM**
18 **-- INVASION OF PRIVACY --**
AGAINST DEFENDANTS CITY, ABI-CHAHINE, JARVIS, AND DOES 1 TO 100

19 57. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
20 paragraphs 1 through 18 above, as though fully set forth herein.

21 58. Galindo's vehicle is a private and personal place and contained private and
22 personal belongings. By the acts alleged above, Defendants intruded into a private place,
23 conversation, or matter, in which Galindo had a reasonable expectation of privacy, in a manner
24 highly offensive to a reasonable person, which amounted to an invasion of Plaintiff Galindo's
25 privacy.

26 59. Hernandez's person, and, in particular, her genital area, is a very private and
27 personal place. By the acts alleged above, Defendant Abi-Chahine intruded into Hernandez's
28 person in which she had a reasonable expectation of privacy, in a manner that would be highly

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.
USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 offensive to a reasonable person and which amounted to an invasion of her privacy.

2 WHEREFORE, Plaintiffs pray for relief as set forth herein.

3 **TENTH CLAIM**

4 **-- CONSPIRACY --**

5 **AGAINST DEFENDANTS ABI-CHAHINE, JARVIS, AND DOES 1 TO 100**

6 60. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
7 paragraphs 1 through 18 above, as though fully set forth herein.

8 61. On information and belief, Plaintiffs allege that Defendants Abi-Chahine and
9 Jarvis were assigned the task, on the subject evening of this incident, to identify and/or
10 apprehend drug users, drug sellers and other related illicit activity in the area in which Plaintiffs
11 were stopped and which was known to the SMPD and these officers as a high crime area within
the City of San Mateo.

12 62. When Abi-Chahine and Jarvis saw an inoperative rear window brake light and
13 even though they had a right to stop the vehicle to write a citation for that infraction, they
14 deliberately, intentionally, and without regard to Plaintiffs' civil rights in the manner earlier
15 stated, extended the traffic stop far more, in time, than was reasonably necessary to cite and
16 release Galindo and to unlawfully search person and vehicle. The (irrelevant) claim that
17 Hernandez was exhibiting signs of being under the influence and the other previously-
18 mentioned bogus criminal claims by Abi-Chahine towards Hernandez, a passenger, were
19 deliberately fabricated and utilized by both officers to force Plaintiffs out of their vehicle, detain
20 them for an unreasonable period of time, place Galindo in handcuffs and publically accuse
21 Hernandez of both present and past criminal conduct, and while Abi-Chahine intentionally
22 sexually violated Hernandez to satisfy his own prurient deviant interests in the manner alleged
23 herein. With respect to the latter accusation regarding the gender violence committed upon
24 Hernandez by Abi-Chahine, Hernandez is not alleging that Jarvis conspired or agreed to that
25 conduct before it occurred.

26 WHEREFORE, Plaintiffs pray for relief as set forth herein.

27 **ELEVENTH CLAIM**

28 **-- GENDER VIOLENCE – CA CIVIL CODE § 52.4 --**

AGAINST DEFENDANT ABI-CHAHINE

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.

USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 63. Plaintiffs re-allege, and incorporate by reference, the allegations contained in
2 paragraphs 1 through 18 above, as though fully set forth herein.

3 64. Abi-Chahine committed gender violence as that term is defined in California
4 Civil Code § 52.4(c).

5 65. As a legal result of the foregoing wrongful acts, Hernandez suffered actual and
6 compensatory damages including, but not limited to, substantial mental distress, and pain and
7 suffering. Hernandez is further entitled to and seeks punitive damages against Abi-Chahine. No
8 punitive damages are sought against City.

9 WHEREFORE, Plaintiffs pray for relief as set forth herein.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs respectfully requests the following relief against each and
12 every Defendant herein, jointly and severally:

- 13 1. Compensatory damages in an amount according to proof, which is fair, just, and
14 reasonable;
- 15 2. Exemplary and punitive damages against the individual Defendants only, under
16 42 U.S.C. § 1983 and California law, in an amount according to proof and which
17 is fair, just, and reasonable;
- 18 3. For attorney's fees and costs of suit under 42 U.S.C. § 1988;
- 19 4. For attorney's fees and costs of suit under California Civil Code §§ 52(b)(3),
20 52.1(h), and 52.4(a);
- 21 5. For all other damages, penalties, costs, interest, and attorney fees as otherwise
22 may be allowed by California and/or federal law;
- 23 6. For declaratory and injunctive relief against the CITY OF SAN MATEO,
24 including, but not limited to the following:
 - 25 a. An order prohibiting Defendants and their police officers from
26 unlawfully interfering with the rights of Plaintiffs and other
27 citizens within its jurisdiction including the right(s) to be free from
28 unreasonable and/or pretextual searches and seizures, excessive

COMPLAINT FOR DAMAGES

Galindo, Hernandez v. City of SAN MATEO, et al.

USDC (N.D. Cal.) Case No.: 3:16-cv-03651

1 and unreasonable force;

2 b. Requiring Defendant City of San Mateo to institute and maintain a

3 protocol prohibiting its officers from conducting searches of

4 persons of the opposite sex; and

5 c. Prohibiting officers from conducting citizen pat-down-searches in

6 circumstances involving nothing more than non-arrestable minor

7 traffic violations.

8 7. For such other and further relief as the Court deems just and proper.

9 **JURY TRIAL DEMAND**

10 Plaintiffs hereby respectfully demands a jury trial in this action on all claims for relief
11 that are triable by a jury, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

12 **INTRADISTRICT ASSIGNMENT**

13 This action arose in the County of San Mateo. Pursuant to Civil L.R. 3-2(c)(d), this action
14 shall be assigned to the San Francisco Division or the Oakland Division.

16 Dated: June 29, 2016

LAW OFFICES OF PANOS LAGOS

18 */s/Panos Lagos*
19 Panos Lagos, Esq.
20 Attorney for Plaintiffs,
JOSE GALINDO,
SANDRA HERNANDEZ